

based on any cause of action to recover damages or compensation for tortious physical or mental injury, property damage, or economic loss shall not exceed the greater of—

(1) 3 times the amount awarded to the claimant for the economic injury on which such claim is based; or

(2) \$250,000.

(b) APPLICATION BY COURT.—This section shall be applied by the court and shall not be disclosed to the jury.

SEC. 10. ALTERNATIVE DISPUTE RESOLUTION.

(a) GENERAL POLICY.—The policy of the United States is to encourage the creation and use of alternative dispute resolution techniques, and to promote the expeditious resolution of such actions, because the traditional litigation process is not always suited to the timely, efficient, and inexpensive resolution of civil actions.

(b) NOTICE OF AVAILABILITY OF ALTERNATIVE DISPUTE RESOLUTION.—In any civil action or claim arising under any Federal law or in any diversity action in Federal court, each attorney who has made an appearance in the case and who represents one or more of the parties to the action shall, with respect to each party separately represented, advise the party of the existence and availability of alternative dispute resolution options, including extra judicial proceedings such as minitrials, third-party mediation, court supervised arbitration, and summary jury trial proceedings.

(c) CERTIFICATION OF NOTICE.—Each attorney described under subsection (b) shall, simultaneous with the filing of a complaint or a responsive pleading, file a certification to the court that the attorney has provided the notice required under subsection (b) to the client or clients of such attorney. The attorney shall state in the certification whether such client will agree to one or more of the alternative dispute resolution techniques.

(d) AGREEMENT TO PROCEED WITH ALTERNATIVE DISPUTE RESOLUTION.—If all parties to an action agree to proceed with one or more alternative dispute resolution proceedings, the court shall issue an appropriate order governing the conduct of such proceedings. The issuance of an order governing the proceedings shall constitute a waiver, by each party subject to the order, of the right to proceed further in court.

SEC. 11. RELIABILITY OF EXPERT EVIDENCE.

Rule 702 of the Federal Rules of Evidence is amended—

(1) by striking out “If” and inserting in lieu thereof “(a) IN GENERAL.—Subject to subsection (b), if”; and

(2) by adding at the end thereof the following:

“(b) ADEQUATE BASIS FOR OPINION.—Testimony in the form of an opinion by a witness that is based on scientific knowledge shall be inadmissible in evidence unless the court determines that such opinion is—

“(1) based on scientifically valid reasoning; and

“(2) sufficiently reliable so that the probative value of such evidence outweighs the dangers specified under rule 403.

(c) EXPERT OPINIONS ON NOVEL SCIENTIFIC PRINCIPLES OR DISCOVERIES.—Where testimony in the form of an opinion by a witness is sought to be used to establish a novel scientific principle or discovery, it shall be admissible only if the principle or discovery, or its scientific underpinning, is sufficiently established to have gained general acceptance in the field in which it belongs.

“(d) DISQUALIFICATION.—Testimony by a witness who is qualified as an expert under subsection (a) is inadmissible in evidence if such witness is entitled to receive any compensation directly or indirectly contingent on the legal disposition of any claim with respect to which such testimony is offered.”.

SEC. 12. EXPRESS AUTHORIZATION FOR PRIVATE RIGHT OF ACTION.

(a) IN GENERAL.—Chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new section:

“§ 1368. Private right of action

“No district court shall have jurisdiction over any civil action filed by a party based on a private right of action, unless such private right of action is expressly authorized in the statute on which such action is based.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new item:

“1368. Private right of action.”.

(c) STATE COURTS.—No Federal statute shall be construed to give rise to a private right of action in a State court, unless such private right of action is expressly authorized in the statute on which such action is based.

SEC. 13. APPLICABILITY.

(a) PREEMPTION.—This Act shall preempt and supersede other Federal or State laws only to the extent any such law is inconsistent with this Act. This Act shall not preempt any Federal or State law that provides for defenses in addition to those contained in this Act, places greater limitations on the amount of attorney's fees that can be collected, or additional disclosure requirements upon attorneys, or otherwise imposes restrictions on economic, noneconomic, or punitive damages. Any issue arising under this Act that is not governed by the provisions of this Act shall be governed by applicable Federal or State law.

(b) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(4) preempt State choice-of-law rules with respect to claims brought by a foreign nation or citizen of a foreign nation; or

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign or of a citizen of a foreign nation on the ground of inconvenient forum.

(c) STATE ELECTION REGARDING APPLICABILITY.—A provision of this Act shall not apply to a State if such State enacts a statute—

(1) citing the authority of this subsection; and

(2) declaring the election of such State that such provision shall not apply to the State.

SEC. 14. SEVERABILITY.

If any provision of this Act or the application of any such provision to any person or circumstance is held invalid, the remainder of this Act and the application of any provision to any other person or circumstance shall not be affected thereby.

SEC. 15. EFFECTIVE DATE.

This Act shall take effect and apply to claims or actions filed on and after the date occurring 30 days after the date of enactment of this Act.●

ORDERS FOR THURSDAY, FEBRUARY 2, 1995

Mr. HATCH. I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. on Thursday, February 2, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, and the time for the two leaders be reserved for their use later in the day; that there then be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak for not more than 5 minutes each, with the following Senators to speak for up to the designated times: Senator MURKOWSKI, 20 minutes; Senator CONRAD, 15 minutes; Senator DORGAN, 10 minutes; Senator CAMPBELL, 10 minutes.

I further ask unanimous consent that at 10:30 a.m. the Senate resume consideration of House Joint Resolution 1, the constitutional balanced budget amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. HATCH. If there is no further business to come before the Senate and no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Senate, at 5:31 p.m., recessed until Thursday, February 2, 1995, at 9:30 a.m.